

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

LINDA SULLIVAN,

Plaintiff,

v.

EXPERIAN INFORMATION SOLUTIONS,
INC., TRANS UNION LLC, CAPITAL ONE
USA NA, HSBC BANK, GE MONEY BANK
d/b/a GEMB WAL-MART

Defendants.

Case No. 1:11-cv-362

Judge Mattice

SCHEDULING ORDER

1. **Introduction:** Pursuant to Fed. R. Civ. P. 16(b), a scheduling conference was held in this cause on **February 3, 2012**. Present representing the plaintiff **was** attorney **Erin Novak**. Present representing: Defendant Experian Information Solutions Inc. **were** attorneys **Eric Hardeman (by telephone)** and **Robert Sauser**; Defendant Trans Union LLC **were** attorneys **Elena Gobeyn (by telephone)** and **William Brown (by telephone)**; Defendant Capital One USA NA **were** attorneys **John Nefflen (by telephone)** and **Joshua Thradcraft**; Defendant HSBC Bank **was** attorney **Jeffrey Matukewicz**; and Defendant GEMB Wal-Mart **was** attorney **Rebecca Brinkley**. The following action was taken.

2. **Jurisdiction:** In this case, the subject matter jurisdiction of the Court has been invoked pursuant to **28 U.S.C. § 1331** and **is not** in dispute.

3. **Consent to Magistrate Judge:** The parties **do not** consent to have all proceedings in this case conducted by a United States Magistrate Judge in accordance with 28 U.S.C. § 636(c).

4. **Settlement/Alternative Dispute Resolution**

(a) The possibility of this case being resolved by settlement is **unknown** at this time.

(b) The parties shall discuss the possibility of utilizing the Federal Court Mediation Program in this case and shall notify the Court on or before **May 3, 2012** as to whether they think the Federal Court Mediation Program can aid in resolving this case. Letters expressing the parties' views in this regard should be sent to the attention of John Medearis, U.S. District Court, 900 Georgia Avenue, Room 309, Chattanooga, Tennessee 37402.

5. Disclosure and Discovery

(a) **Fed. R. Civ. P. 26(f) Meeting**: The parties have held a discovery planning meeting as required by Rule 26(f).

(b) **Discovery Plan**: The parties have filed with the Court a discovery plan in accordance with Fed. R. Civ. P. 26(f).

(c) **Initial Disclosures**: The parties shall make all disclosures required by Rule 26(a)(1) on or before **February 15, 2012**.

(d) **Expert Testimony**: Plaintiff shall disclose to all other parties any expert testimony in accordance with Fed. R. Civ. P. 26(a)(2) on or before **January 8, 2013**. Defendant shall disclose to all other parties any expert testimony in accordance with Fed. R. Civ. P. 26(a)(2) on or before **February 19, 2013**. If at any time it appears that a *Daubert* hearing may be necessary to determine the admissibility of expert testimony, the parties shall notify the Court at their earliest convenience of the potential need for such a hearing.

(e) **Final Witness List**: On or before **March 5, 2013**, each party shall provide to all other parties a final witness list in accordance with Fed. R. Civ. P. 26(a)(3)(A). Within five (5) days after service of this final witness list, the list may be supplemented. After that time, the list may be supplemented only with leave of the Court and for good cause.

(f) **All Discovery**: All discovery, including the taking of depositions “for evidence,” shall be completed by **March 19, 2013**.

(g) **Pretrial Disclosures**: On or before **June 18, 2013**, the parties shall make the pretrial disclosures specified in Fed. R. Civ. P. 26(a)(3)(A)(ii)-(iii) (*i.e.*, deposition testimony and exhibit lists).

(h) **Courtroom Technology**: On or before **July 15, 2013**, the parties shall (1) disclose to one another the technology they intend to use in the courtroom during the trial and how they intend to use it (*e.g.*, display equipment; data storage, retrieval, or presentation devices); (2) disclose to one another the content of their electronic or digital materials; and (3) confirm the compatibility/viability of their planned use of technology with the Court’s equipment. General information on equipment supplied by the Court is available on the Eastern District of Tennessee website (www.tned.uscourts.gov). Specific questions about Court-supplied equipment should be directed to the presiding judge’s courtroom deputy (directory available on website).

6. Other Scheduling Matters

(a) **Joinder of Parties and Amendments to the Pleadings**: If any party wishes to join one or more additional parties or amend its pleadings, such joinder or amendment shall be made by

January 22, 2013.

(b) ***Dispositive Motions***: All dispositive motions per Fed. R. Civ. P. 12 or for summary judgment per Fed. R. Civ. P. 56 shall be filed as soon as possible, but not later than **April 16, 2013**. The failure to file such motions timely will be grounds to deny them summarily.

As discussed in his judicial preferences – available on the Court's website at <http://www.tned.uscourts.gov/judges.php?judge=3> – Judge Mattice does not find Statements of Undisputed Material Facts to be helpful and will summarily disregard them unless they conform to the requirements in his preferences, *i.e.* (1) they are jointly-filed; (2) they contain no argument; (3) they state true facts and are not mere reiterations of the parties' positions. Any "response" to such a Statement will result in the Court construing the Statement as not jointly-filed and summarily disregarding it.

(c) ***Motions in Limine***: Any motions in limine must be filed no later than **July 2, 2013** and **must include a certification** that the movant has in good faith conferred or attempted to confer with the other parties in an effort to resolve any disputes without court action.

(d) ***Special Requests to Instruct for Jury Trial***: Pursuant to Local Rule 51.1, requests for jury instructions shall be submitted to the Court no later than **July 9, 2013** and shall be supported by citations of authority pursuant to E.D. Tenn. LR. 7.4. A copy of the proposed jury instructions should be sent as an e-mail attachment in WordPerfect or compatible format to ***mattice_chambers@tned.uscourts.gov***.

Before submitting proposed instructions to the Court, the parties must confer and attempt to resolve any disagreements. Each set of proposed instructions **must include a certification** that the movant has in good faith conferred or attempted to confer with the other parties in an effort to resolve any disputed instructions.

The Court uses the Sixth Circuit Criminal Pattern Jury Instructions as its model in formulating the final instructions given to the jury; therefore, all proposed jury instructions must follow their form of the pattern instructions. The parties shall not submit proposed instructions for matters common to both civil and criminal cases and covered by the pattern instructions ***unless*** they seek to depart from those standard instructions.

7. *Final Pretrial Conference*: A final pretrial conference will be held in this case on **July 15, 2013 at 4:00 p.m.** before the United States District Judge, First Floor District Courtroom, U.S. Courthouse, 900 Georgia Avenue, Chattanooga, Tennessee.

The parties shall prepare a proposed final pretrial order and submit that proposed order to the Court **at least one business day before the final pretrial conference** by sending it as an e-mail attachment in WordPerfect or compatible format to ***mattice_chambers@tned.uscourts.gov***.

8. Trial: The trial of this case will be held before the United States District Judge **and a jury** beginning on **July 30, 2013** in **Chattanooga**, Tennessee. The trial is expected to last **4-5 days**. Counsel shall be present at **9:00 a.m.** to take up any preliminary matters which may require the Court's attention. The parties shall be prepared to commence trial at **9:00 a.m.** on the date which has been assigned. If this case is not heard immediately, it will be held in line until the following day or any time during the week of the scheduled trial date. **SHOULD THE SCHEDULED TRIAL DATE CHANGE FOR ANY REASON, THE OTHER DATES SET BY THIS ORDER SHALL REMAIN AS SET FORTH HEREIN. SHOULD THE PARTIES DESIRE A CHANGE IN ANY OF THE OTHER DATES, THEY SHOULD FILE A MOTION SHOWING GOOD CAUSE IN ACCORDANCE WITH FED. R. CIV. P. 16(B)(4) AND SUGGESTING ALTERNATIVE DATES.**

Finally, Capital One Bank (USA) N.A.'s Motion for Leave to Allow John Paul Nefflen to Participate in Rule 16(b) Scheduling Conference by Telephone (Doc. 66) is hereby **GRANTED**.

SO ORDERED this 3rd day of February, 2012.

/s/Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE